

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

BILLY CHARLES AARON
ADC #110649

PLAINTIFF

V.

5:06CV00312-WRW

GRANT HARRIS, Warden, Varner Unit, Arkansas
Department of Correction; THOMAS W. HURST,
Asst. Warden, Varner Unit, Arkansas Department of Correction;
GARY L. VALLS, Sgt., Delta Regional Unit,
Arkansas Department of Correction; and CHRIS
COODS, Hearing Officer, Central Office,
Arkansas Department of Correction

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge H. David Young. No objections have been filed. After careful consideration, the Court concludes that the Proposed Findings and Recommended Disposition should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects.

IT IS THEREFORE ORDERED that:

1. This action is DISMISSED WITHOUT PREJUDICE, and dismissal of this action shall counts as a “strike” for purposes of 28 U.S.C. § 1915(g).¹

¹ Title 28 U.S.C. § 1915(g) provides that: “In no event shall a prisoner bring a civil action or appeal a judgment in a civil action under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted” The Eighth Circuit has held that, if a plaintiff fails to exhaust available administrative remedies before initiating an action in federal

2. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from any Order adopting these recommendations would not be taken in good faith.

DATED this 30th day of January, 2007.

/s/Wm. R. Wilson, Jr.
UNITED STATES DISTRICT JUDGE

court, the complaint fails to state a claim upon which relief may be granted. *Porter v. Fox*, 99 F.3d 271 (8th Cir. 1996); *Sharps v. United States Forest Serv.*, 28 F.3d 815 (8th Cir. 1994).